

ARC 5897B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 455A.6, the Environmental Protection Commission of the Department of Natural Resources hereby gives Notice of Intended Action to rescind Chapter 7, “Rules of Practice in Contested Cases,” Iowa Administrative Code, and to adopt a new Chapter 7 with the same title.

This proposed rule making adopts by reference the new version of 561—Chapter 7 that became effective March 7, 2007. On September 27, 2006, a Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 5385B** to rescind 561—Chapter 7 and to adopt a new version of Chapter 7. No comments were received, and the Adopted and Filed rule making was published in the Iowa Administrative Bulletin on January 31, 2007, as **ARC 5693B**.

The new version of 561—Chapter 7 addresses procedural issues that have arisen in the past on a recurring basis. It also clarifies the procedural practices of the Department.

The new version of Chapter 7 was reviewed by an administrative law judge from the Department of Inspections and Appeals and by a group of volunteer attorneys who are members of the Iowa State Bar Association.

Any interested persons may make written suggestions or comments regarding the proposed amendment no later than 4:30 p.m. on June 12, 2007. Written comments should be directed to Anne Preziosi, Department of Natural Resources, Air Quality Bureau, 7900 Hickman, Urbandale, Iowa 50322; telephone (515)281-6243; fax (515)242-5094. Requests for a public hearing regarding this rule making must be submitted in writing to the above address by the above date.

This amendment is intended to implement Iowa Code section 455A.4.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Rescind 567—Chapter 7 and adopt the following new chapter in lieu thereof:

CHAPTER 7

RULES OF PRACTICE IN CONTESTED CASES

567—7.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 7, Iowa Administrative Code.

This rule is intended to implement Iowa Code sections 17A.3 and 17A.12 to 17A.18.

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Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

The proposed amendment to the table of criteria for chemical constituents will:

- Change the current numerical criteria for 20 chemical parameters to protect aquatic life for the following use designations: Class B(WW-1), Class B(WW-2), and Class B(WW-3).
- Change current numerical criteria for 42 chemical parameters to protect human health for Class HH – Human Health.
- Add the chemical parameter aldrin to protect aquatic life and human health.

The 20 chemical parameters to protect aquatic life for the Class B(WW-1), Class B(WW-2), and Class B(WW-3) designations include: arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, zinc, cyanide, chlordane, 4,4-DDT, endosulfan, heptachlor, heptachlor epoxide, polychlorinated biphenyls (PCBs), toxaphene, aluminum, and total residual chlorine.

The 42 parameters to protect human health for the Class HH designation include: antimony, arsenic (III), benzene, benzo(a)Pyrene, bromoform, carbon tetrachloride, chlordane, chlorobenzene, chlorodibromomethane, cyanide, 4,4-DDT, para-dichlorobenzene, 3,3-dichlorobenzidine, dichlorobromomethane, 1,2-dichloroethane, 1,1-dichloroethylene, 1,2-trans-dichloroethylene, 1,2-dichloropropane, bis(2-ethylhexyl)phthalate, dieldrin, 2,3,7,8-TCDD (dioxin), endosulfan, endrin, ethylbenzene, heptachlor, heptachlor epoxide, hexachlorobenzene, gamma-BHC (lindane), hexachlorocyclopentadiene, nickel, polynuclear aromatic hydrocarbons (PAHs), pentachlorophenol (PCP), polychlorinated biphenyls (PCBs), phenols, selenium, tetrachlorethylene, thallium, toluene, toxaphene, trichloroethylene (TCE), vinyl chloride, and zinc.

The proposed amendment will revise the current criteria for the chemical parameters listed above to reflect the latest scientific information and Environmental Protection Agency guidance.

Additional information on Iowa’s water quality standards and the Department’s rules can be found on the Department’s Web site at <http://www.iowadnr.com/water/standards/index.html>.

Any person may submit written suggestions or comments on the proposed amendment through July 10, 2007. Such written material should be submitted to Adam Schnieders, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by E-mail to adam.schnieders@dnr.state.ia.us. Persons who have questions may contact Adam Schnieders at (515)281-7409.

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Persons are invited to present oral or written comments at the public hearings which will be held:

June 14, 2007 11 a.m. Municipal Utilities Conference Room
15 W. Third St.
Atlantic, Iowa

June 14, 2007 7 p.m. Cherokee Community Center
530 W. Bluff St.
Cherokee, Iowa

June 19, 2007 11 a.m. Farmers and Merchants Savings Trust
101 E. Main St.
Manchester, Iowa

June 19, 2007 7 p.m. Clear Lake Community Meeting Room
15 N. Sixth St.
Clear Lake, Iowa

June 21, 2007 7 p.m. Washington Community Y
121 E. Main St.
Washington, Iowa

June 26, 2007 1 p.m. Wallace State Office Building
Fifth Floor Conference Rooms
502 East 9th St.
Des Moines, Iowa

Any person who intends to attend a public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources to advise of any specific needs.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 61.3(3), Table 1, Criteria for Chemical Constituents, as follows:

TABLE 1: Criteria for Chemical Constituents

(all values in micrograms per liter *as total recoverable* unless noted otherwise)

Human health criteria for carcinogenic parameters noted below were based on the prevention of an incremental cancer risk of 1 in 100,000. For parameters not having a noted human health criterion, the U.S. Environmental Protection Agency has not developed final national human health guideline values. For noncarcinogenic parameters, the recommended EPA criterion was selected. For Class C waters, the EPA criteria for fish and water consumption were selected using the same considerations for carcinogenic and noncarcinogenic parameters as noted above. For Class C waters for which no EPA human health criteria were available, the EPA MCL value was selected.

Parameter		Use Designations							HH
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C	
Alachlor	MCL	—	—	—	—	—	—	2	—
Aldrin	Acute	—	—	3	3	3	—	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.00050 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	.00049 ^(f)
Aluminum	Chronic	87	—	388 87	773 87	773 87	748	—	—
	Acute	1106	—	4539 750	9035 750	9035 750	983	—	—
Antimony	Human Health — Fish	—	—	—	—	—	—	—	640 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	14 5.6 ^(f)
Arsenic (III)	Chronic	200	—	200 150	1000 150	1000 150	200	—	—
	Acute	360	—	360 340	1800 340	1800 340	360	—	—
	Human Health — Fish	—	—	—	—	—	—	—	50 ^(e)
	Human Health — F & W	—	—	—	—	—	—	—	1.4 ^(e) (g)
	Human Health — F & W	—	—	—	—	—	—	—	.18 ^(f) (g)
Asbestos	Human Health — F & W	—	—	—	—	—	—	—	7(a) (f)
Atrazine	MCL	—	—	—	—	—	—	3	—
Barium	Human Health + — F & W	—	—	—	—	—	—	—	1000 ^(f)
Benzene	Human Health — F & W	—	—	—	—	—	—	—	12 22 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	712.8 510 ^(e)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

[illegible]

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Parameter		Use Designations						C	HH
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)		
Cyanide	Chronic	5	—	10 5.2	10 5.2	10 5.2	10	—	—
	Acute	20	—	45 22	45 22	45 22	45	—	—
	Human Health + — F & W	—	—	—	—	—	—	—	700 140(f)
	Human Health — Fish	—	—	—	—	—	—	—	140(e)
Dalapon	MCL	—	—	—	—	—	—	200	—
Dibromochloro propane	MCL	—	—	—	—	—	—	.2	—
4,4-DDT ++	Chronic	.001	—	.001	.029 .001	.029 .001	.001	—	—
	Acute	.9	—	.8 1.1	.95 1.1	.95 1.1	.55	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.0059 0022(e)
	Human Health — F & W	—	—	—	—	—	—	—	.0059 0022(f)
o-Dichloro- benzene	MCL	—	—	—	—	—	—	600	—
para-Dichloro- benzene	Human Health + — F & W	—	—	—	—	—	—	—	400 63(f)
	Human Health + — Fish	—	—	—	—	—	—	—	2.6* 190(e)
3,3-Dichloro- benzidine	Human Health — Fish	—	—	—	—	—	—	—	.2 .28(e)
	Human Health — F & W	—	—	—	—	—	—	—	.4 .21(f)
Dichlorobromo- methane	Human Health — F & W	—	—	—	—	—	—	—	5.6 5.5(f)
	Human Health — Fish	—	—	—	—	—	—	—	460 170(e)
1,2-Dichloro- ethane	Human Health — F & W	—	—	—	—	—	—	—	3.8(f)
	Human Health — Fish	—	—	—	—	—	—	—	986 370(e)
1,1-Dichloro- ethylene	Human Health — F & W	—	—	—	—	—	—	—	.57 330(f)
	Human Health — Fish	—	—	—	—	—	—	—	32 7.1*(e)
cis-1,2-Dichloro- ethylene	MCL	—	—	—	—	—	—	70	—
trans-1,2 1,2-trans- Dichloroethylene	Human Health + — F & W	—	—	—	—	—	—	—	700 10*(f)
	Human Health — Fish	—	—	—	—	—	—	—	140(e)
Dichloromethane	MCL	—	—	—	—	—	—	5	—
1,2-Dichloro- propane	Human Health — F & W	—	—	—	—	—	—	—	5.2 5.0(f)
	Human Health — Fish	—	—	—	—	—	—	—	150(e)
Di(2-ethylhex- yl)adipate	MCL	—	—	—	—	—	—	400	—

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Parameter		Use Designations						C	HH
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)		
Di bis(2-ethylhex-yl)phthalate	Human Health — F & W	—	—	—	—	—	—	—	18 12 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	22 ^(e)
Dieldrin	Chronic	.056	—	.056	.056	.056	.056	—	—
	Acute	.24	—	.24	.24	.24	.24	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.0014 .00054 ^(e)
	Human Health — F & W	—	—	—	—	—	—	—	.0014 .00052 ^(f)
Dinoseb	MCL	—	—	—	—	—	—	7	—
2,3,7,8-TCDD (Dioxin)	Human Health — F & W	—	—	—	—	—	—	—	1.3-7 5.0-8 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	.00014- 5.1-8 ^(e)
Diquat	MCL	—	—	—	—	—	—	20	—
2,4-D	Human Health + — F & W	—	—	—	—	—	—	—	100 ^(f)
Endosulfan ^(b)	Chronic	.056	—	.15 .056	.15 .056	.15 .056	.15	—	—
	Acute	.11	—	.3 .22	.3 .22	.3 .22	.3	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	240 89 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	110 62 ^(f)
Endothall	MCL	—	—	—	—	—	—	100	—
Endrin	Chronic	.05	—	.036	.036	.036	.036	—	—
	Acute	.12	—	.086	.086	.086	.086	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	.81 .06 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	.76 .059 ^(f)
Ethylbenzene	Human Health + — F & W	—	—	—	—	—	—	—	3100 530 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	2100 ^(e)
Ethylene dibromide	MCL	—	—	—	—	—	—	.05	—
Fluoride	MCL	—	—	—	—	—	—	4000	—
Glyphosate	MCL	—	—	—	—	—	—	700	—
Heptachlor	Chronic	.0038	—	.0038	.01 .0038	.01 .0038	.0038	—	—
	Acute	.38	—	.38 .52	.38 .52	.38 .52	.38	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.002 .00079 ^(e)
	Human Health — F & W	—	—	—	—	—	—	—	.0021 .00079 ^(f)

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Parameter		Use Designations						C	HH
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)		
Heptachlor epoxide	Chronic	.0038	—	.0038	.0038	.0038	.0038	—	—
	Acute	.52	—	.52	.52	.52	.52	—	—
	Human Health — F & W	—	—	—	—	—	—	—	.001 .00039 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	.00039 ^(e)
Hexachloro-benzene	Human Health — F & W	—	—	—	—	—	—	—	.0075 .0028 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	.0029 ^(e)
γ -Hexachloro-cyclohexane-gamma-BHC (Lindane)	Chronic	N/A	—	N/A	N/A	N/A	N/A	—	—
	Acute	.95	—	.95	.95	.95	.95	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	.63 1.8 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	.19 .98 ^(f)
Hexachloro-cyclopentadiene	Human Health — F & W	—	—	—	—	—	—	—	240 40 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	1100 ^(e)
Lead	Chronic	3	—	30 3.2 ^(j)	80 3.2 ^(j)	80 3.2 ^(j)	3	—	—
	Acute	80	—	200 81.7 ^(j)	750 81.7 ^(j)	750 81.7 ^(j)	80	—	—
	MCL	—	—	—	—	—	—	50	—
Mercury (II)	Chronic	3.5	—	2.1 .9	3.7 .9	3.7 .9	.91	—	—
	Acute	6.5	—	4.0 1.64	6.9 1.64	6.9 1.64	1.7	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	.15 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	.05 ^(f)
Methoxychlor	Human Health + — F & W	—	—	—	—	—	—	—	100 ^(f)
Nickel	Chronic	350	—	650 52 ^(k)	750 52 ^(k)	750 52 ^(k)	150	—	—
	Acute	3250	—	5800 470 ^(k)	7000 470 ^(k)	7000 470 ^(k)	1400	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	4584 4600 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	610 ^(f)
Nitrate as N	MCL	—	—	—	—	—	—	10*	—
Nitrate + Nitrite as N	MCL	—	—	—	—	—	—	10*	—
Nitrite as N	MCL	—	—	—	—	—	—	1*	—
Oxamyl (Vydate)	MCL	—	—	—	—	—	—	200	—
Parathion	Chronic	.013	—	.013	.013	.013	.013	—	—
	Acute	.065	—	.065	.065	.065	.065	—	—

Use Designations

[illegible]

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Parameter		Use Designations							C	HH
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)			
Toluene	Chronic	50	—	50	150	150	50	—	—	
	Acute	2500	—	2500	7500	7500	2500	—	—	
	Human Health + — Fish	—	—	—	—	—	—	—	300 15*(e)	
	Human Health + — F & W	—	—	—	—	—	—	—	6800 1300(f)	
Total Residual Chlorine (TRC)	Chronic	10	—	20 11	25 11	25 11	10	—	—	
	Acute	35	—	35 19	40 19	40 19	20	—	—	
Toxaphene	Chronic	.037	—	.037 .002	.037 .002	.037 .002	.037	—	—	
	Acute	.73	—	.73	.73	.73	.73	—	—	
	Human Health — Fish	—	—	—	—	—	—	—	.0075 .0028(e)	
	Human Health — F & W	—	—	—	—	—	—	—	.0073 .0028(f)	
1,2,4-Trichloro- benzene	MCL	—	—	—	—	—	—	70	—	
1,1,1-Trichloro- ethane	MCL	—	—	—	—	—	—	200	—	
	Human Health + — Fish	—	—	—	—	—	—	—	173*(e)	
1,1,2-Trichloro- ethane	Human Health — F & W	—	—	—	—	—	—	—	6(f)	
Trichloroethylene (TCE)	Chronic	80	—	80	80	80	80	—	—	
	Acute	4000	—	4000	4000	4000	4000	—	—	
	Human Health — Fish	—	—	—	—	—	—	—	807 300(e)	
	Human Health — F & W	—	—	—	—	—	—	—	27 25(f)	
Trihalomethanes (total) ^(c)	MCL	—	—	—	—	—	—	80	—	
Vinyl Chloride	Human Health — F & W	—	—	—	—	—	—	—	20 .25(f)	
	Human Health — Fish	—	—	—	—	—	—	—	5250 240(e)	
Xylenes (total)	MCL	—	—	—	—	—	—	10*	—	
Zinc	Chronic	200	—	450 120 ^(l)	2000 120 ^(l)	2000 120 ^(l)	100	—	—	
	Acute	220	—	500 120 ^(l)	2200 120 ^(l)	2200 120 ^(l)	110	—	—	
	Human Health + — Fish	—	—	—	—	—	—	—	5000 26*(e)	
	Human Health + — F & W	—	—	—	—	—	—	—	9100 7.4*(f)	

* units expressed as milligrams/liter

** to include the sum of known and suspected carcinogenic PAHs (includes benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, and indeno(1,2,3-cd)pyrene)

† expressed as nanograms/liter

+ represents the noncarcinogenic human health parameters

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Parameter	Use Designations						
	B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C HH
++ The concentrations of 4,4-DDT or its metabolites; 4,4-DDE and 4,4-DDD, individually shall not exceed the human health criteria.							
(a) units expressed as million fibers/liter (longer than 10 micrometers)							
(b) includes alpha-endosulfan, beta-endosulfan, and endosulfan sulfate in combination or as individually measured							
(c) The sum of the four trihalomethanes (bromoform [tribromomethane], chlorodibromomethane, chloroform [trichloro-methane], and dichlorobromomethane) may not exceed the MCL.							
(d) Class B numerical criteria are for pentachlorophenol are a function of pH using the equation: Criterion ($\mu\text{g/l}$) = $e^{[1.005(\text{pH}) - x]}$, where $e = 2.71828$ and x varies according to the following table:							
	B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	
Acute	3.869	—	4.869	4.869	4.869	4.869	
Chronic	4.134	—	5.134	5.134	5.134	5.134	
(e) This Class HH criterion would be applicable to any Class B(LW), B(CW1), B(WW-1), B(WW-2), or B(WW-3) water body that is also designated Class HH.							
(f) This Class HH criterion would be applicable to any Class C water body that is also designated Class HH.							
(g) inorganic form only							
(h) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 100 mg/l (as CaCO_3 (mg/l)). Numerical criteria ($\mu\text{g/l}$) for cadmium are a function of hardness (as CaCO_3 (mg/l)) using the equation for each use according to the following table:							
	B(WW-1)		B(WW-2)		B(WW-3)		
Acute	$e^{[1.0166\text{Ln(Hardness)} - 3.924]}$		$e^{[1.0166\text{Ln(Hardness)} - 3.924]}$		$e^{[1.0166\text{Ln(Hardness)} - 3.924]}$		
Chronic	$e^{[0.7409\text{Ln(Hardness)} - 4.719]}$		$e^{[0.7409\text{Ln(Hardness)} - 4.719]}$		$e^{[0.7409\text{Ln(Hardness)} - 4.719]}$		
(i) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 100 mg/l (as CaCO_3 (mg/l)). Numerical criteria ($\mu\text{g/l}$) for copper are a function of hardness (CaCO_3 (mg/l)) using the equation for each use according to the following table:							
	B(WW-1)		B(WW-2)		B(WW-3)		
Acute	$e^{[0.9422\text{Ln(Hardness)} - 1.700]}$		$e^{[0.9422\text{Ln(Hardness)} - 1.700]}$		$e^{[0.9422\text{Ln(Hardness)} - 1.700]}$		
Chronic	$e^{[0.8545\text{Ln(Hardness)} - 1.702]}$		$e^{[0.8545\text{Ln(Hardness)} - 1.702]}$		$e^{[0.8545\text{Ln(Hardness)} - 1.702]}$		
(j) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 100 mg/l (as CaCO_3 (mg/l)). Numerical criteria ($\mu\text{g/l}$) for lead are a function of hardness (CaCO_3 (mg/l)) using the equation for each use according to the following table:							
	B(WW-1)		B(WW-2)		B(WW-3)		
Acute	$e^{[1.2731\text{Ln(Hardness)} - 1.46]}$		$e^{[1.2731\text{Ln(Hardness)} - 1.46]}$		$e^{[1.2731\text{Ln(Hardness)} - 1.46]}$		
Chronic	$e^{[1.2731\text{Ln(Hardness)} - 4.705]}$		$e^{[1.2731\text{Ln(Hardness)} - 4.705]}$		$e^{[1.2731\text{Ln(Hardness)} - 4.705]}$		
(k) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 100 mg/l (as CaCO_3 (mg/l)). Numerical criteria ($\mu\text{g/l}$) for nickel are a function of hardness (CaCO_3 (mg/l)) using the equation for each use according to the following table:							
	B(WW-1)		B(WW-2)		B(WW-3)		
Acute	$e^{[0.846\text{Ln(Hardness)} + 2.255]}$		$e^{[0.846\text{Ln(Hardness)} + 2.255]}$		$e^{[0.846\text{Ln(Hardness)} + 2.255]}$		
Chronic	$e^{[0.846\text{Ln(Hardness)} + 0.0584]}$		$e^{[0.846\text{Ln(Hardness)} + 0.0584]}$		$e^{[0.846\text{Ln(Hardness)} + 0.0584]}$		
(l) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 100 mg/l (as CaCO_3 (mg/l)). Numerical criteria ($\mu\text{g/l}$) for zinc are a function of hardness (CaCO_3 (mg/l)) using the equation for each use according to the following table:							
	B(WW-1)		B(WW-2)		B(WW-3)		
Acute	$e^{[0.8473\text{Ln(Hardness)} + 0.884]}$		$e^{[0.8473\text{Ln(Hardness)} + 0.884]}$		$e^{[0.8473\text{Ln(Hardness)} + 0.884]}$		
Chronic	$e^{[0.8473\text{Ln(Hardness)} + 0.884]}$		$e^{[0.8473\text{Ln(Hardness)} + 0.884]}$		$e^{[0.8473\text{Ln(Hardness)} + 0.884]}$		

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ENVIRONMENTAL PROTECTION
COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 455B.105(11) and 455B.173, the Environmental Protection Commission hereby proposes to amend Chapter 93, "Non-

point Source Pollution Control Set-Aside Programs," Iowa Administrative Code.

The proposed amendments primarily affect the Livestock Water Quality Facilities program, which, as part of the Clean Water State Revolving Fund, provides low-interest financing to eligible animal feeding operations for manure management structures, equipment, and plans.

A new facility design that appears to be environmentally beneficial is the bedded confinement building, or deep-bedded building. Current administrative rules for the Livestock Water Quality Facilities program do not allow for financing of these structures. The Department of Natural Resources is proposing to allow for financing of these types of roofed facilities under certain conditions, as outlined in the proposed amendments.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

In addition, the proposed amendments include the following items:

- Restating the purpose of the program to include pollution prevention;
- Updating the date for the federal definition of a Concentrated Animal Feeding Operation in both the Livestock Water Quality Facilities program and the Local Water Protection Projects program;
- Clarifying the descriptions of eligible practices;
- Referencing the requirements for manure management plans found in 567—Chapter 65;
- Updating the requirements for project approval and removing the option of departmental review of plans and specifications;
- Allowing for financing of updates to manure management, nutrient management, or comprehensive nutrient management plans as part of project financing;
- Adding a requirement for recipient record keeping; and
- Adding language allowing for the establishment of loan fees in the Intended Use Plan.

Any interested person may make written suggestions or comments pertaining to the proposed amendments on or before June 21, 2007. Such written materials should be directed to Patti Cale-Finnegan, Water Quality Bureau, Iowa Department of Natural Resources, 401 SW 7th Street, Suite M, Des Moines, Iowa 50309-4611; fax (515)725-0348; E-mail patti.cale-finnegan@dnr.state.ia.us. Persons wishing to convey their views orally should contact Patti Cale-Finnegan at (515)725-0498.

The Water Quality Bureau encourages those interested in submitting comments to utilize the following guidelines. These guidelines aid in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments as an individual or on behalf of a municipality, business, or organization.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language that you think would improve the specific rule(s) and explain why.

A public hearing will be held on June 14, 2007, at 10 a.m. in the conference room at the IDNR Water Supply office at 401 SW 7th Street, Suite M, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department of Natural Resources to advise of specific needs.

These amendments are intended to implement Iowa Code sections 17A.3(1)“b,” 455B.105, 455B.291, and 455B.297.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 93.3(2) as follows:

93.3(2) Livestock water quality facilities set-aside. The purpose of the set-aside is to assist owners of existing animal feeding operations to meet state and federal requirements *or to prevent, minimize or eliminate water pollution*. Projects may be selected using the rating and ranking process in 567—Chapter 91.

ITEM 2. Amend subrule 93.5(1) as follows:

93.5(1) Livestock water quality facilities assistance. Assistance under the CWSRF shall be in the form of low-interest loans made by participating lending institutions or in other manners as specified in an agreement with a pass-through loan recipient. The following eligibility conditions and restrictions for participation apply to such assistance.

a. Location preferences. Livestock water quality facilities located in watersheds with Section 303(d) waters or waters determined to be impaired in the Section 305(b) report will be given a higher priority for funding. See 567—91.9(455B).

b. Eligible project costs. The amount of assistance available shall be limited to the total costs deemed necessary, reasonable and directly related to the facilities required to provide water pollution control as required by the department *or to prevent, minimize or eliminate water pollution*.

c. Applicant eligibility. Assistance is limited to livestock producers operating animal feeding operations that are eligible to receive assistance from the state revolving fund according to current federal laws and regulations.

NOTE: Current federal laws and rules as of August 2005 February 2007 do not allow assistance for concentrated animal feeding operations or assistance for animal feeding operations that will become concentrated animal feeding operations as a result of the project.

Loans will be made only to livestock producers that are operators of record and have legal control of the property containing the animal feeding operation for the duration of the loan.

d. Project eligibility. The water pollution control facilities considered eligible for assistance include: lagoons; waste treatment facilities and equipment, including but not limited to land used as part of the waste treatment systems; waste storage or holding structures; composters composting facilities and equipment; pipes, pumps, and agitation equipment used to move and manage manures; fencing around lagoons and other waste storage structures; water systems used to flush water in waste treatment systems; irrigation systems; tank wagons, manure spreaders, tractor blades used for scraping waste and other waste collection and processing equipment (including without limitation tank trucks, loaders, skid loaders, and waste irrigation equipment); re-circulation pumps, portions of feeding floors and loafing areas used for waste collection and storage; tractor blades used for scraping waste; vegetative filters, filter strips, water and sediment control basins, contour buffer strips, and diversions used to reduce pollution potential from livestock facilities or land disposal areas; fencing and cross fencing along with any associated watering facilities used as part of managed grazing systems; and other similar structures, equipment or water pollution abatement activities as may be found in approved manure management plans that fit the requirements of 567—65.17(459), in nutrient management plans, or in comprehensive nutrient management plans as defined by the USDA Natural Resources Conservation Service, provided that portions of the foregoing (except water systems used for flush water in waste treatment systems and composters) located within a poultry house, milk parlor or hog-confinement